

PERSONNEL POLICY
Fauquier County, Virginia

Policy Title:	Section No.:	Effective Date:
Sexual Harassment in the Workplace	46	March 2, 1993

I. Purpose

It is the policy of Fauquier County Government that all employees, male and female, should be able to enjoy a work environment free from all forms of discrimination, including sexual harassment. This policy defines and prohibits conduct that could constitute sexual harassment, and provides a process for receiving and resolving sexual harassment complaints.

II. Scope

This policy applies to all full time and part time (permanent or temporary status) Fauquier County employees, and is designed to provide a remedy for employees subjected to harassment by co-workers, supervisors and third parties.

III. Definition

Sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. Harassment on the basis of sex is a violation of Title VII of the Civil Rights Act of 1964 and of County Personnel Policy.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- (2) Submission to or rejection of such conduct is used as a basis for employment decisions affecting such individuals.
- (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment does not refer to occasional compliments of a socially acceptable nature. Sexual harassment refers to behavior that is not welcome, that is personally offensive, that lowers morale and that, therefore, interferes with work effectiveness.

IV. Prohibited Conduct

A. Employees shall not sexually harass other employees.

B. The following examples of conduct may or may not constitute sexual harassment under Title VII of the Civil Rights Act of 1964 depending upon the circumstances under which they occur, but are inappropriate and will constitute misconduct under the Personnel Policies of Fauquier County for which appropriate disciplinary action will be taken. They do not represent all forms in which misconduct under this policy or sexual harassment may occur.

- ~~(1) — Explicit or implicit promises of career advancement or preferential treatment in return for sexual favors including, but not limited to, hiring, promotion, training and other opportunities or benefits, acceptance of a lower standard of performance, providing higher performance evaluations, and lax time keeping, when similarly qualified persons are not afforded such benefits or opportunities.~~
- ~~(2) — Explicit or implicit threats that an employee's job will be adversely affected if sexual demands are rejected, including, but not limited to, lower evaluations, denial of promotions, or other employment opportunities, punitive transfers, terminations, and altered or increased work assignments.~~
- ~~(3) — Denial of employment opportunities or otherwise adversely affecting a person's employment as set forth in subsection (III) above, based on rejection of sexual attention or demands.~~
- ~~(4) — Deliberate, repeated or unsolicited verbal comments and gestures of a sexual nature. This includes any type of sexually suggestive remarks, pictures or jokes.~~
- ~~(5) — Deliberate, repeated and unsolicited, and unwanted touching of any kind, including the touching, patting, kissing or pinching of another person and the repeated brushing against another person's body.~~
- ~~(6) — Propositions of a sexual nature; continued or repeated verbal comments of a sexual nature; degrading, abusive, or sexually suggestive comments about an employee's appearance; whistling or catcalling of a sexual nature; and the display of sexually suggestive objects or pictures.~~

~~C. — Any supervisor who uses implicit or explicit sexual behavior to control influence, or affect the employment of an employee is engaging in sexual harassment.~~

~~D. — Any employee who makes deliberate and/or repeated offensive verbal comments or gestures, or who engages in physical contact of a sexual nature which is unwelcome in the workplace is also guilty of sexual harassment.~~

V. — Roles and Responsibilities

~~A. — Managers and supervisors have the responsibility to~~

- ~~(1) — Ensure that no County employee is subjected to sexual harassment or actions which could be perceived as sexual harassment as a result~~

_____ of their own actions, those of other employees, or those of third
_____ parties such as customers or contractors.

(2) _____ Provide a working environment which is free of harassment and/or
intimidation.

(3) _____ Promptly report to the County Administrator any observed
behavior that violates this policy.

(4) _____ Make all employees aware that false accusations will result in
severe disciplinary action, up to and including termination.

(5) _____ Circulate this policy among all employees.

B. _____ The Personnel Department will ensure that the Sexual Harassment In The
Workplace policy statement is posted throughout the County office buildings.

C. _____ All employees are expected to conduct themselves in a manner that will ensure
proper performance of County business and maintenance of public trust and
confidence.

D. _____ Victims have a responsibility to make it clear to the harasser, directly or through
the complaint process, that such behavior is offensive and to provide notice of the
harassment in a timely manner as outlined below in Step 1.

VI. _____ Complaint Procedure

_____ Any employee who believes that he or she has been the subject of sexual harassment
should report the alleged charge immediately in accordance with the following procedure.
It shall not, under any circumstances, be necessary for the employee to report a charge to
the person who has allegedly harassed the employee. All information disclosed in the
procedure, including the name of the complainant and the accused, as well as the
existence of the complaint, will be held in strictest confidence and will only be disclosed
on a need-to-know basis in order to investigate and resolve the matter. Any violation of
confidentiality will constitute misconduct and result in appropriate disciplinary action.

_____ Step 1:

_____ It is recommended that the employee alleging sexual harassment (the
complainant) report the incident to his/her immediate supervisor (if the immediate
supervisor is not the accused). If the complainant is not comfortable, for
whatever reason, reporting the incident to his/her immediate supervisor, the
complainant may report the incident to the following individuals in the order
listed:

- _____ Department Head
- _____ Personnel Director
- _____ County Administrator

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- ~~For the purpose of this policy, the County Administrator shall be designated as the Equal Opportunity Counselor for the County, and the Board of Supervisors shall be designated as the Equal Opportunity Review Board. The person informed of the alleged harassment shall be required to inform the Personnel Director immediately of the complaint, unless the complainant alleges sexual harassment by the Personnel Director. Within ten (10) calendar days, the complainant will be interviewed by the Personnel Director to discuss the nature of the allegations, and will be informed that in order to pursue the complaint, the complainant must complete a form (see attached) specifically outlining the nature of the complaint. If the complainant refuses to complete the form, the matter will not be further investigated by Fauquier County, unless circumstances clearly indicate that an investigation should be undertaken. In the event that the employee alleges sexual harassment by the Personnel Director, the County Administrator shall be notified and shall thereafter conduct the interview of complainant and any further investigation in accordance with this policy without the assistance of the Personnel Director. Charges of sexual harassment against the County Administrator shall be referred directly by the Personnel Director to the Board of Supervisors, as the Equal Opportunity Review Board. Upon receipt of written complaint, the Department Head, County Administrator and Personnel Director are to be notified immediately.~~
- ~~The County Administrator and Personnel Director will review the complaint, and may obtain such further information concerning the complaint as may be necessary, to determine whether an investigation is warranted. If an investigation is not warranted, the County Administrator shall notify the complainant in writing, within ten (10) calendar days, that no further investigation will be undertaken.~~
- ~~This policy is intended to provide an alternative to the County grievance procedure for resolution of complaints of sexual harassment. In the event that the employee elects to pursue a complaint under this policy, the employee shall not be permitted to pursue the complaint through the County Grievance procedure. In the event that the employee has previously filed an employment grievance as a result of an incident of sexual harassment, the employee shall not be permitted to pursue a complaint regarding the same incident under this procedure.~~
- ~~Step 2:~~
- ~~If an investigation is warranted, the County Administrator, with the assistance of the Personnel Director, will notify the accused within three working days and will conduct such investigation as is deemed appropriate which will consist of interviews of the complainant, the victim (if not the complainant), the accused, witnesses named by the victim and others who may have relevant information. The alleged harasser will be informed of the allegations and provided an opportunity to respond in the interview process. In the event that a complaint of harassment is made against the County Administrator, the Personnel Director~~

~~shall request the Board of Supervisors, in its capacity as Equal Opportunity Review Board, to designate a disinterested person as Equal Opportunity Counselor to conduct the investigation of the charge.~~

~~— In the event that a third party such as a contractor, citizen or vendor is responsible for sexual harassment, the County Administrator will consult with the Personnel Director, and the department head or Constitutional Officer who employs the complainant, to determine the appropriate action which should be taken.~~

~~— The Personnel Director will review the personnel files of the complainant and the accused for information related to the complaint.~~

~~— Step 3:~~

~~— After completion of the investigation, the County Administrator or other appointed Equal Opportunity Counselor shall, within ten (10) calendar days, render a decision regarding the complaint, apprising the complainant of:~~

~~(1) — The County Administrator's findings regarding the validity of the complaint.~~

~~(2) — Appropriate disciplinary action taken or other relief granted.~~

~~(3) — Notification to the department head, or Constitutional Officer, that the matter has been addressed and appropriate action taken.~~

~~(4) — Notification to the complainant and the accused of the action taken.~~

~~— The complainant shall sign the County Administrator's report and indicate agreement or disagreement with the decision within ten (10) calendar days. Failure to sign the report shall be deemed to be an acceptance of the findings and action taken or proposed.~~

~~— If it is determined that there is no foundation for the allegation, the complaint will not be made a part of the personnel record of the accused. False accusations may result in severe disciplinary action, including termination.~~

~~— If there is a foundation for the allegations, the determination of the action to be taken, up to and including termination, will be based on the facts on a case-by-case basis.~~

~~— Any complainant or alleged harasser aggrieved by the decision of the Equal Opportunity Counselor may request a review of the action of the Equal Opportunity Counselor by the Board of Supervisors. The decision of the Board, upon review of the proceedings carried out in accordance with the procedures established in this section, shall be final.~~

~~VII. Reprisals~~

~~_____ No employee shall take reprisal, retaliate or encourage others to engage in retaliation or reprisal against any person acting in good faith who:~~

- ~~(1) _____ Opposes any conduct prohibited by this policy;~~
- ~~(2) _____ Complies or encourages others to comply with this policy;~~
- ~~(3) _____ Files a complaint concerning any violation of this policy;~~
- ~~(4) _____ Testifies, assists or participates in any investigation or hearing resulting from a complaint under this policy; or~~
- ~~(5) _____ Exercises or attempts to exercise any right conferred under this policy.~~

~~_____ Employees who take reprisal, or encourage others to do so, will be in violation of this policy and will receive appropriate disciplinary action.~~